



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0906
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

December 7, 2015

Mr. Jonathan D. Petersen, Esq.
1544 45th Avenue, Suite 3
Munster, Indiana 46321

Re: Formal Complaint 15-FC-283; Alleged Violation of the Access to Public Records Act by the City of Gary Law Department

Dear Mr. Petersen,

This advisory opinion is in response to your formal complaint alleging the City of Gary Law Department ("City") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* The City did not respond to your formal complaint but did reach out to this Office for guidance. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 21, 2015.

BACKGROUND

Your complaint dated October 15, 2015, alleges the City of Gary Law Department violated the Access to Public Records Act by failing to provide the documents you requested.

On June 8, 2015, your law office submitted a request for public records to the City seeking the names and addresses of all landlords registered with the City and/or paid rental registration fees from 2010 to present. You were denied this information on August 20, 2015 by the Building Commissioner's Office. It indicated you would receive the names on the list but not addresses.

The City reached out to my Office to clarify their obligations under the APRA at which time they were advised on the provisions of Ind. Code § 5-14-3-3(f) which states that requestors are allowed to inspect and make memoranda abstracts of such a list, but a requestor was not entitled to a copy, electronic or otherwise.

ANALYSIS

The public policy of the APRA states that “a (p)roviding person with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The City of Gary Law Department is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Any person has the right to inspect and copy the City’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

As you are likely aware, Ind. Code § 5-14-3-3(f) states

a public agency is not required to create or provide copies of lists of names and addresses (including electronic mail account addresses) unless the public agency is required to publish such lists and disseminate them to the public under a statute. However, if a public agency has created a list of names and addresses (excluding electronic mail account addresses) it must permit a person to inspect and make memoranda abstracts from the list.

Therefore, to the extent the City maintains a list of landlord names and addresses; it must allow inspection of said list. It does not, however, have to provide a copy. It is my understanding based on conversations with corporation counsel the City is aware of the provision and will proceed accordingly.

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the City of Gary Law Department has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a stylized, flowing script.

Luke H. Britt
Public Access Counselor

Cc: Mr. Rodney Pol, Esq.